OPERATIONAL LAW AND THE LEGAL PROFESSIONAL: A CANADIAN PERSPECTIVE

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THEMES

- The Canadian Forces Judge Advocate General
- The Legal/Operational Team
- Operational Law
- Operational Legal Issues
- Legal Framework
- Case study
- The Future
- Q&A

MANDATE

The Canadian Forces Judge Advocate General is the legal advisor to the Minister of National Defence and the Chief of Defence Staff in matters relating to military law.

JAG Strategic Goals

“Deliver expanded and enhanced services in military law”

FY 00/01 JAG Strategic Letter, 01 No

LEGAL / OPERATOR TEAM

ALL LEVELS/ALL PHASES

	Strategic	Operational/Tactical
Planning	✓	✓
Training	✓	✓
Deployment	✓	✓

OPERATIONAL LAW

That body of law, both domestic and international, impacting specifically upon legal issues associated with the planning for and deployment of Canadian Forces in both peacetime and combat environments.

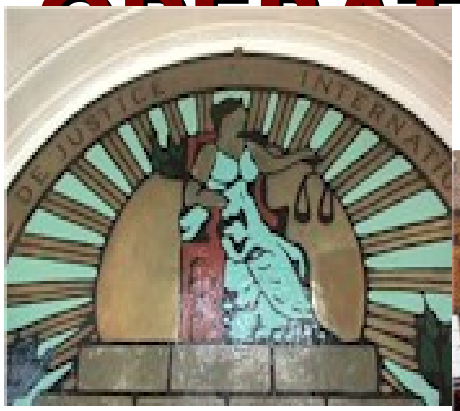
THE PROFESSION OF ARMS

“The function of the profession of arms is the ordered application of force in the resolution of a social problem.”

OPERATIONAL LEGAL ISSUES

- Legal Basis / Mandate
- Use of Force / ROE
- Targeting
- Review of Operations Pl
- Legality of Weapons / U
- Investigation of War Crimes
- Treatment of Civilians/Refugees
- Instruction in Law of Armed Conflict
- Negotiation of Status of Forces Agreement (SOFA)

LEGAL FRAMEWORK OF CANADIAN FORCES OPERATIONS



all human rights for all

FIFTIETH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

1948-1998

- International Law
- International Human Rights Law
- Law of Armed Conflict (LOAC)
- Canadian Domestic Law

INTERNATIONAL LAW

- Customary International Law
- Conventional or Treaty Law
- Charter of the United Nations

CONVENTIONAL OR TREATY LAW

- Geneva Conventions and Additional Protocols
- Hague Law (means & methods of warfare)
- Other Treaties (Anti-Personnel Mines, International Criminal Court, Child Soldiers, UN [illegible] th[illegible])

INTERNATIONAL HUMAN RIGHTS LAW

- Changing Nature of Conflicts in Post-War Era
- More Media Coverage and Accessibility
- Greater International Community Response
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LEGAL INTEROPERABILITY ISSUES

- Different International Treaty Obligations
- Different Rules of Engagement Architecture
- Different Interpretatio
- ...uen...

RECENT CANADIAN FORCES INTERNATIONAL OPERATION

NATO Air Campaign

into the Federal Republic of Yugoslavia OPERATION ALLIED FORCE

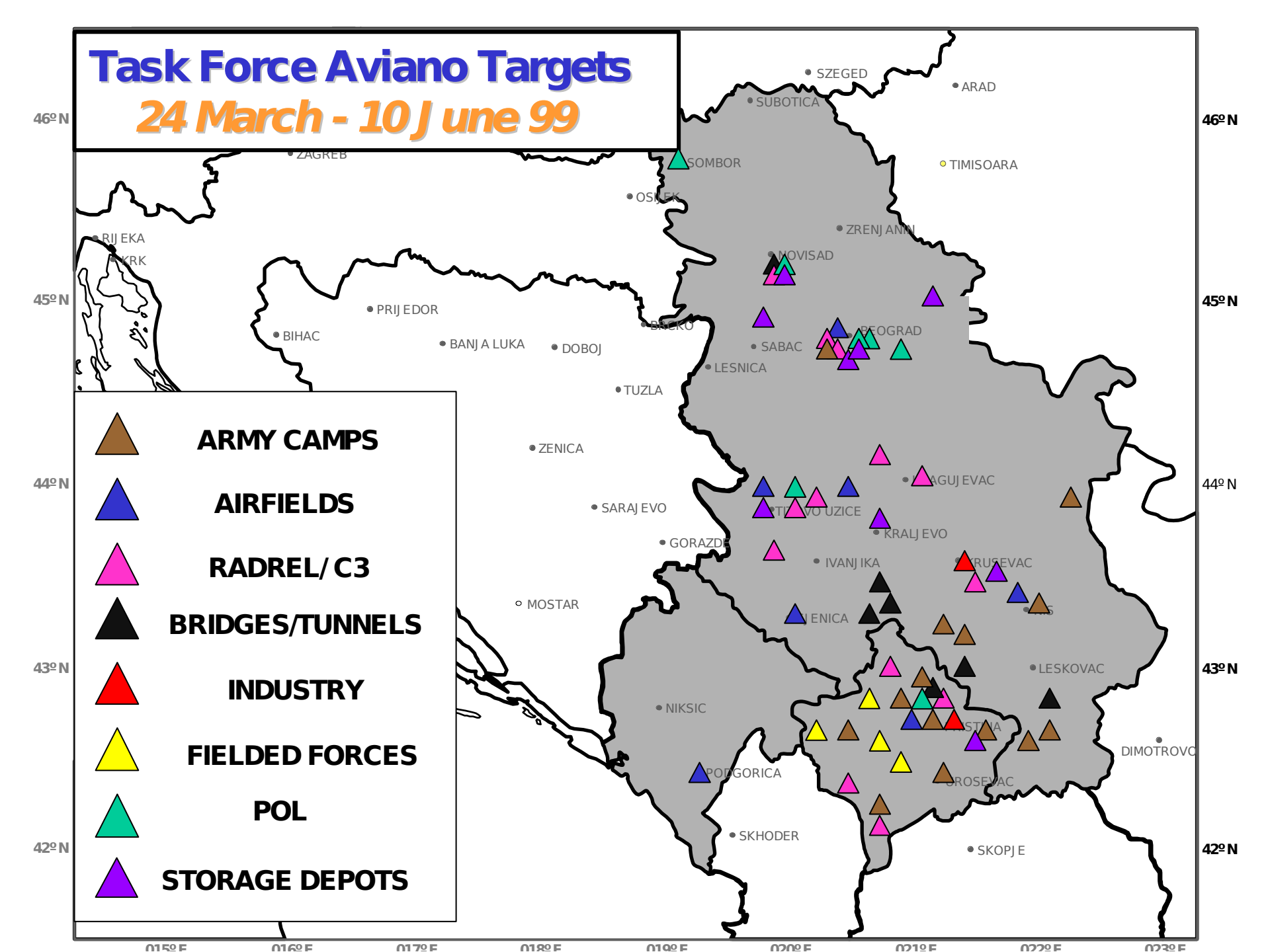
(24 Mar – 10 Jun 99)

ORIGINS OF THE CONFLICT

- 1989 Slobodan Milosevic rises to power thru Serb nationalism
- Kosovo ("birth of th Serb nation") and the "oppression" of the Serb minority used to his political advantage
- Kosovo
  - 2.0 million people
  - 1.8 Albanian
  - 0.2 million Serb

OP ALLIED FORCE - CANADIAN INVOLVEMENT

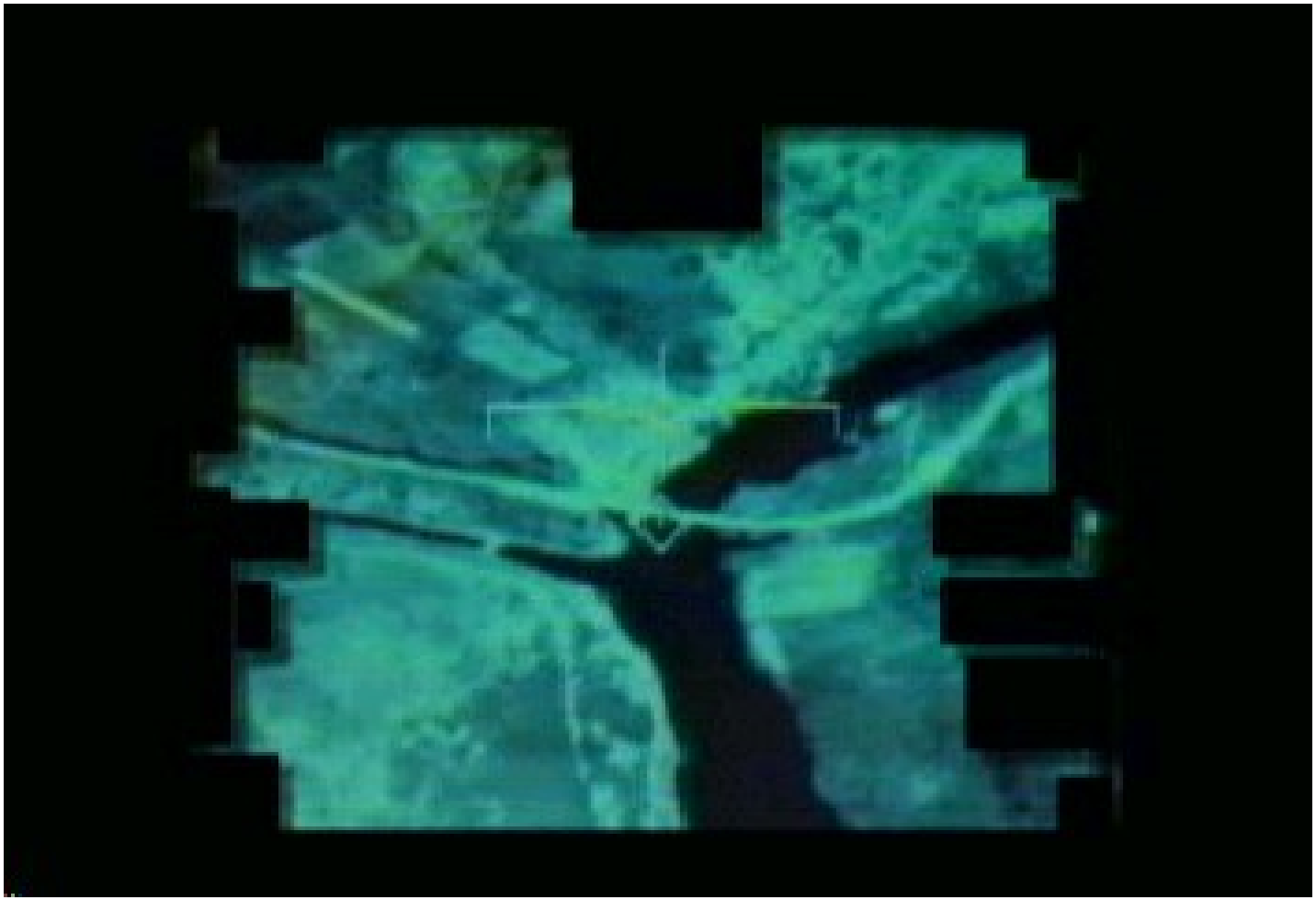
- 277 Canadian Forces members in theater (Italy)
- 32 pilots in Aviano
- 2 legal officers in Aviano
- Commander and 4 pilots in Vicenza
- 24/7 Operations
- 16 sorties per day, surging to 20


Task Force Aviano Targets
24 March - 10 June 99
ARMY CAMPS
AIRFIELDS
RADREL/C3
BRIDGES/TUNNELS
INDUSTRY
FIELDED FORCES
POL
STORAGE DEPOTS
SZEGED
ARAD
SUBOTICA
ZAGREB
SOMBOR
TIMISOARA
OSIJEK
ZRENJANIN
RIJEKA
KRK
NOVISAD
PRIJEDOR
BIHAC
BANJALUKA
DOBOJ
SABAC
BEOGRAD
LESNICA
TUZLA
ZENICA
KRAGUJEVAC
SARAJEVO
UZICE
KRALJEVO
GORAZDE
IVANJICA
KRUSEVAC
MOSTAR
LESKOVAC
NIKSIC
DIMOTROVO
PODGORICA
GROSEVAC
SKHODER
SKOPJE
46º N
45º N
44º N
43º N
42º N
015º E
016º E
017º E
018º E
019º E
020º E
021º E
022º E
023º E

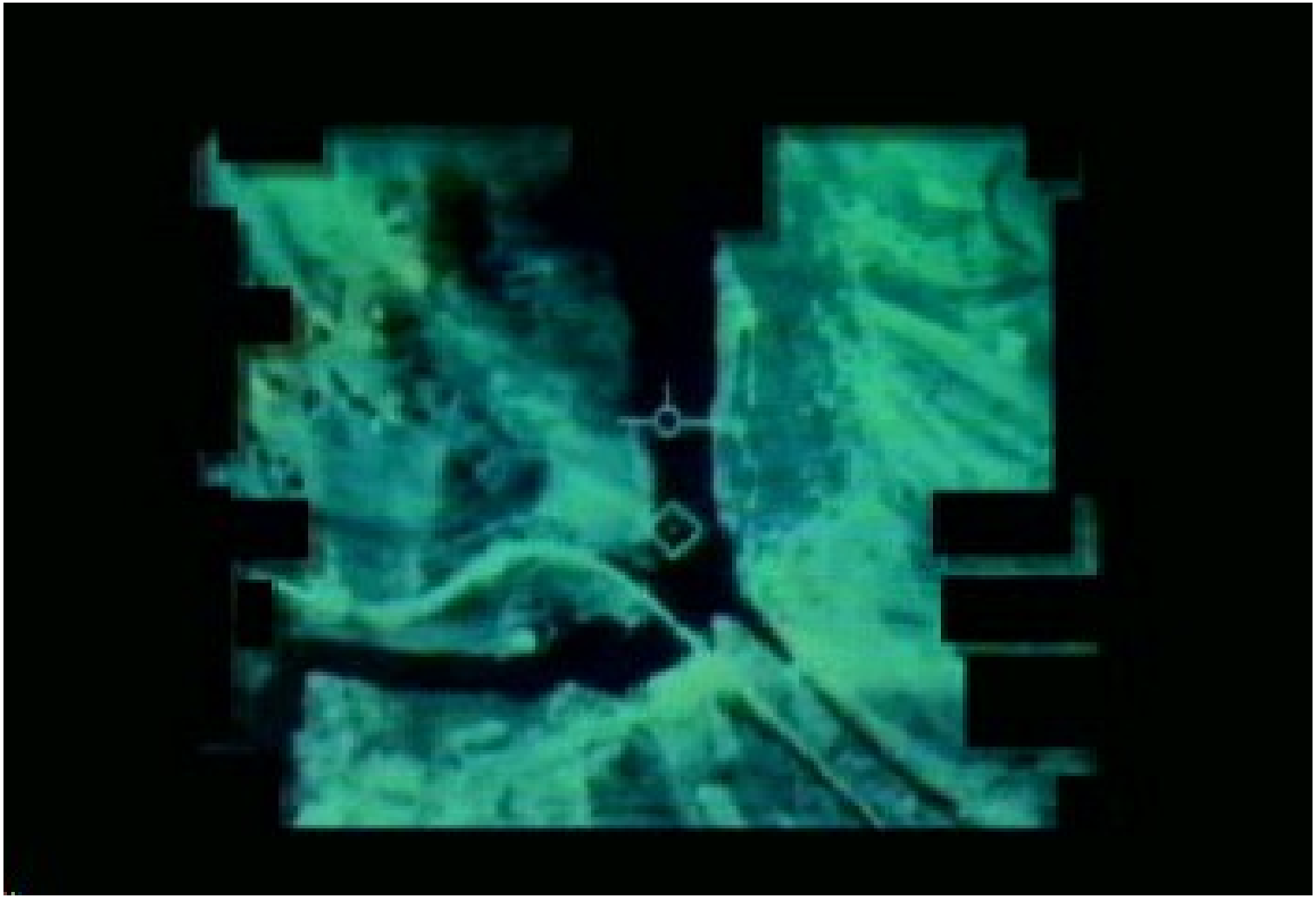
CANADIAN LEGAL OFFICERS' INVOLVEMENT

- Legal involvement at all phases of the operation (planning, training, deployment, re-deployment)
- Legal involvement at all levels (strategic, operational, tactical)
- Every Canadian Forces assigned target legally reviewed
- Every mission reviewed for battle damage assessment
- Every flight lead received pre-mission legal brief
- Every command instruction legally reviewed
- Every pilot received Rules of Engagement / Special Operations training in-theatre

Task Force Aviano
Bridge Target (UNCLAS)



Task Force Aviano
Bridge Target (UNCLAS)



THE FUTURE

"… the involvement of armed forces in peace operations in support of human rights and law, and in which the maintenance of legitimacy is important, places a premium on the democratic character and commitment of forces, without diminishing the role of proper military virtues. Soldiers must themselves be conscious of these values, and experience them, if they are to be expected to protect them and foster them abroad…"

Report of the Commission of Inquiry into the Deployment of the Canadian Forces to Somalia (June 1997)

THE FUTURE

"Operational Law is going to become as significant to a commander as manoeuvre, as fire support, and as logistics. It will be a principal battlefield activity. The senior SJAs [Staff Judge Advocates] may be as close to the commander as his operations officer or his chief of staff...SJAs will find themselves more and more part of the operational aspects of the business. They will be the right hand of the commander, and he will come to them for advice."

Lt-General Anthony Zinni, USMC, Commander Marine Expeditionary Force I, 1995

Questions?